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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,963	05/10/2001	Peter Van Giel	10015199-1	4094

7590 12/16/2005

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EXAMINER

BELL, MELTIN

ART UNIT PAPER NUMBER

2129

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/851,963

Applicant(s)

GIEL ET AL.

Examiner

Meltin Bell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to application **09/851,963** filed **05/10/2001** as well as the Amendment After Non-Final Rejection filed 7/18/2005. Claims 1-23 have been canceled as requested by the applicant. Claims 24-42 filed by the applicant have been entered and examined. As an initial matter, the examiner would like to thank the applicant for reviewing related applications, 10/152,556, 10/151,802, 10/151,803, 10/152,214 and 10/372,475 (now USPN 6,952,689), directing the examiner's attention to the art cited in the related applications and submitting the 7/18/05 Information Disclosure Statement (IDS) with the instant application containing art cited in the related applications. An action on the merits of claims 24-42 appears below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 24, 27-28, 31 and 34-35 are rejected under 35 U.S.C. 102(e) as being anticipated by *Baggett et al* United States Patent Number (USPN) 6,925,443 "Method,

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system and computer program product for assessing information security" (Filed Apr. 26, 2000).

Regarding claim 24:

Baggett et al discloses a computer-implemented (Fig. 22; column 5, lines 36-39) method (Abstract) for auditing (column 3, lines 13-19; column 4, lines 8-15; column 30, lines 2-18) the software or hardware (column 1, lines 27-37) configurations (column 3, lines 41-50) of a plurality of computers (column 19, lines 8-27) in one or more enterprises, comprising the steps of: in a fully automated (column 7, lines 1-4; column 11, lines 5-10; column 11, lines 53-57; column 12, lines 65-67; column 13, lines 1-3; column 17, lines 36-67) manner, collecting (column 7, lines 46-54; column 8, lines 65-67; column 9, lines 1-4; column 16, lines 39-61; column 18, lines 54-63) from each of a plurality of networked computers configuration information defining each computer's software configuration or hardware configuration or both; providing a plurality of analyzers (column 24, lines 59-65) based on expert knowledge, each analyzer comprising the executable program steps needed to compute, from selected configuration information gathered from a single computer, a report (column 23, lines 53-59) identifying at least one issue (column 15, lines 5-32) relating to the computer; defining at least one task (column 21, lines 5-33) definition comprising a list of one or more of said computers (column 3, lines 20-38; column 22, lines 60-67; column 23, lines 1-45) and a list of one or more of said analyzers (column 24, lines 66-67; column 25, lines 1-4); and in a fully automated fashion, and guided by one or more of said tasks -- harnessing each of the task listed analyzers to analyze configuration information

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gathered from each of the task definition's listed computers; processing the configuration information so harnessed under the guidance of each analyzer's executable program steps; and utilizing any issue identifying report generated during the processing step for audit purposes.

Regarding claim 27:

The rejection of claim 27 is similar to that for claim 24 as recited above since the claim limitation term not presently rejected in this Office action is set forth in *Baggett et al*: the identity (column 22, lines 32-36) of the computers.

Regarding claim 28:

The rejection of claim 28 is similar to that for claims 24 and 27 as recited above since the claim limitation term not presently rejected in this Office action is set forth in *Baggett et al*: a list (column 21, lines 66-67; column 22, lines 1-31) of one or more audit report templates.

Regarding claim 31:

The rejection of claim 31 is similar to that for claims 24 and 27-28 as recited above since the claim limitation terms not presently rejected in this Office action are set forth in *Baggett et al*: components (column 1, lines 7-15) configured in a variety (column 12, lines 55-62) of measurable ways (column 16, lines 56-67; column 17, lines 1-17), at least one machine-readable (column 25, lines 42-54; column 26, lines 39-44) task definition and sequentially harnessing (column 18, lines 38-42).

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Regarding claim 34:

The rejection of claim 34 is the same as that for claim 27 as recited above since the stated limitation of the claim is set forth in the reference.

Regarding claim 35:

The rejection of claim 35 is similar to that for claim 34 as recited above since the claim limitation terms not presently rejected in this Office action are set forth in *Baggett et al.*: the process of transforming (column 22, lines 37-54).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Office presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Office to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 25-26, 29-30, 32-33 and 36-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Baggett et al* in view of *Haswell et al* USPN 6,502,102

“System, method and article of manufacture for a table-driven automated scripting architecture” (Filed March 27, 2000) and in further view of *Lindlan et al* “A tool framework for static and dynamic analysis of object-oriented software with templates” (November 2000).

Regarding claim 25:

Baggett et al discloses a computer-implemented (Fig. 22; column 5, lines 36-39) method (Abstract) for auditing (column 3, lines 13-19; column 4, lines 8-15; column 30, lines 2-18) the software or hardware (column 1, lines 27-37) configurations (column 3, lines 41-50) of a plurality of computers (column 19, lines 8-27) in one or more enterprises, comprising the steps of: in a fully automated (column 7, lines 1-4; column 11, lines 5-10; column 11, lines 53-57; column 12, lines 65-67; column 13, lines 1-3; column 17, lines 36-67) manner, collecting (column 7, lines 46-54; column 8, lines 65-67; column 9, lines 1-4; column 16, lines 39-61; column 18, lines 54-63) from each of a plurality of networked computers configuration information defining each computer's software configuration or hardware configuration or both; providing a plurality of analyzers (column 24, lines 59-65) based on expert knowledge, each analyzer comprising the executable program steps needed to compute, from selected configuration information gathered from a single computer, a report (column 23, lines 53-59) identifying at least one issue (column 15, lines 5-32) relating to the computer; defining at least one task (column 21, lines 5-33) definition comprising a list of one or

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more of said computers (column 3, lines 20-38; column 22, lines 60-67; column 23, lines 1-45) and a list of one or more of said analyzers (column 24, lines 66-67; column 25, lines 1-4); and in a fully automated fashion, and guided by one or more of said tasks -- harnessing each of the task listed analyzers to analyze configuration information gathered from each of the task definition's listed computers; processing the configuration information so harnessed under the guidance of each analyzer's executable program steps; and utilizing any issue identifying report generated during the processing step for audit purposes. However, *Baggett et al* doesn't explicitly disclose wherein the collecting step includes placing this configuration information into a tracker database from which configuration information is later retrieved during the harnessing or processing steps and wherein the providing analyzers step includes placing these analyzers into an analyzer database from which analyzers are later retrieved during the harnessing or processing steps; and wherein the processing step includes storing any issue identifying report generated in an issues database from which it may later be retrieved and utilized while *Haswell et al* teaches wherein the collecting step includes placing this configuration information into a tracker database (column 57, lines 29-39) from which configuration information is later retrieved during the harnessing or processing steps and *Lindlan et al* teaches the providing analyzers step includes placing these analyzers into an analyzer database (page 3, Fig. 2, section 3, paragraphs 1-2; page 4, left column, paragraph 1) from which analyzers are later retrieved during the harnessing or processing steps.

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Motivation - The portions of the claimed method would have been a highly desirable feature in this art for affording a table-driven automated scripting architecture (*Haswell et al*, Abstract; Fig. 1) and increasing the scope of supported platforms (*Lindlan et al*, page 10, section 6, paragraph 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify *Baggett et al* as taught by *Haswell et al* and *Lindlan et al* by adding tracker and analyzer databases for the purpose of affording a table-driven automated scripting architecture and increasing the scope of supported platforms.

Regarding claim 26:

The rejection of claim 26 is similar to that for claim 25 as recited above since the claim limitation terms not presently rejected in this Office action are set forth in *Baggett et al*: the identity (column 22, lines 32-36) of the computers.

Regarding claim 29:

The rejection of claim 29 is similar to that for claims 28 and 25 as recited above since the claim limitation terms not presently rejected in this Office action are set forth in the references: report template database (*Baggett et al*, column 22, lines 6-11; *Haswell et al*: column 58, lines 31-60; *Lindlan et al*: page 4, Table 1).

Regarding claims 30, 32-33 and 36-42:

The rejection of claims 30, 32-33 and 36-42 are similar to that for claims 24-29, 31 and 34-35 as recited above since the stated limitations of the claim are set forth in the references.

RESPONSE TO APPLICANTS' AMENDMENT REMARKS

Applicants argue that amended claims 24, 28, 30, 31, 37, 38 and 42 address all of the examiner's objections to the claims (Amendment REMARKS page 13, paragraphs 2-3). Applicant's arguments have been fully considered, but are moot in view of the above new grounds of rejection of claims 24, 27-28, 31 and 34-35 under 35 USC 102 and claims 25-26, 29-30, 32-33 and 36-42 under 35 USC 103.

Information Disclosure Statement (IDS)

Applicants submit a new IDS containing references cited in related applications 10/152,556, 10/151,802, 10/151,803, 10/152,214 and 10/372,475 (now USPN 6,952,689) for relevance to the present application (Amendment REMARKS page 13, paragraph 5). In considering the related applications and this IDS 11/2/05, please find submitted herewith by the examiner of the instant application the signed, initialed and dated 11/2/05 Substitute for form 1449/PTO. The applicant may also note *Baggett et al* United States Patent Number (USPN) 6,925,443 in view of *Haswell et al* USPN 6,502,102 and in further view of *Lindlan et al* "A tool framework for static and dynamic analysis of object-oriented software with templates" as more relevant to the instant application.

Claim Rejections - 35 USC § 103

The disclosed prior art, *Baggett et al* in view of *Haswell et al* and in further view of *Lindlan et al*, provides "eminently fair and acceptable" (see MPEP 2113) motive for

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the above rejection of product-by-process claims 31-42 under 35 USC 102 and 35 USC 103: "sequentially harnessing" in product-by-process claims 31-42 vs. "harnessing" in process claims 24-30 "is the same as or obvious from a product of the prior art ... even though the prior product was made by a different process" (see MPEP 2113; *Baggett et al*: column 18, lines 59-67, column 19, lines 1-7; *Haswell et al*, column 77, lines 24-34; *Lindlan et al*, page 1, section 1, paragraph 1). Furthermore, the purpose and motivations for modifying *Baggett et al* by adding tracker and analyzer databases include increasing the scope of supported platforms taught on page 10, section 6, paragraph 1 of *Lindlan et al* and affording a table-driven automated scripting architecture taught in the Abstract and Fig. 1 of *Haswell et al* in the rejection of claims 25-26, 29-30, 32-33 and 36-42.

As set forth above with regards to *Baggett et al*, *Haswell et al* and *Lindlan et al*, the items listed explicitly and inherently teach each element of the applicants' claimed limitations. Applicants have not set forth any distinction or offered any dispute between the claims of the subject application, *Baggett et al*'s Method, system and computer program product for assessing information security, *Haswell et al*'s System, method and article of manufacture for a table-driven automated scripting architecture and *Lindlan et al*'s A tool framework for static and dynamic analysis of object-oriented software with templates.

Conclusion

The following prior art made of record is considered pertinent to applicant's disclosure:

- *Tonelli et al*; US 5,821,937; Computer method for updating a network design
- *Tonelli et al*; US 6229540 B1; Auditing networks
- *Cookmeyer et al*; 6,529,954; Knowledge based expert analysis system
- *Lenkov et al*; US 5560009 A; Generating symbolic debug information by merging translation and compiler debug information
- *Shoji et al*; US 5764908 A; Network system containing program modules residing in different computers and executing commands without return results to calling modules
- *Rosner et al*; US 6298376; Fault tolerant communication monitor for a master/slave system
- *Bell et al*; US 5758150 A; System and method for database synchronization
- *Brandt et al*; US 6714979 B1; Data warehousing infrastructure for web based reporting tool
- *Ginter et al*; US 6658568 B1; Trusted infrastructure support system, methods and techniques for secure electronic commerce transaction and rights management
- *Hyun et al*; US 5937413 A; Data audits based on timestamp criteria in replicated data bases within digital mobile telecommunication system
- *Tsou et al*; US 6578199 B1; Automatic tracking system and method for distributable software

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- *BOWMAN-AMUAH*; US 20010052108 A1; SYSTEM, METHOD AND ARTICLE OF MANUFACTURING FOR A DEVELOPMENT ARCHITECTURE FRAMEWORK
- *LENKOV et al*; EP 476635 A2; Self identifying objects in computer systems
- *SAITO et al*; EP 744695 A2; Information tracing system and information tracing method
- *Bellovin et al*; Results of the Security in ActiveX Workshop; December 21, 2000; pp 1-49
- *Houstis et al*; PYTHIA-II: a knowledge/database system for managing performance data and recommending scientific software; ACM Transactions on Mathematical Software; Vol. 26, Is. 2; June 2000; pp 227-253
- *Grishman et al*; System descriptions: New York University: description of the PROTEUS system as used for MUC-3; Proceedings of the 3rd conference on Message understanding MUC3 '91; May 1991; pp 183-190
- *Petropoulos et al*; XML query forms (XQForms): declarative specification of XML query interfaces; Proceedings of the 10th international ACM conference on World Wide Web; April 2001; pp 642-651
- Cavalry Software Corporation; Accounting Audit Utility;
www.cavalrysoftware.com/proj0005.htm; May 29, 2000; 1 page

Any inquiry concerning this communication or earlier communications from the Office should be directed to Meltin Bell whose telephone number is 571-272-3680. This Examiner can normally be reached on Mon - Fri 7:30 am - 4:00 pm.


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If attempts to reach this Examiner by telephone are unsuccessful, his supervisor, David Vincent, can be reached on 571-272-3080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MB/au, A
December 7, 2005


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12/10/05